

105TH CONGRESS
1ST SESSION

H. R. 161

To amend the Internal Revenue Code of 1986 to terminate the tax subsidies
for large producers of ethanol used as a fuel.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. ENGLISH of Pennsylvania (for himself, Mr. FRANK of Massachusetts, and
Mr. McDERMOTT) introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to terminate
the tax subsidies for large producers of ethanol used
as a fuel.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TERMINATION AFTER 1998 OF TAX SUBSIDIES**

4 **FOR LARGE PRODUCERS OF ETHANOL USED**

5 **AS A FUEL.**

6 (a) GENERAL RULE.—Subsection (e) of section 40 of
7 the Internal Revenue Code of 1986 is amended by adding
8 at the end the following flush sentence:

1 “Except in the case of the credit determined under
 2 subsection (a)(3), the preceding sentence shall be
 3 applied by substituting ‘1998’ for ‘2000’ and ‘1999’
 4 for ‘2001’.”

5 (b) DENIAL OF CREDIT FOR ALCOHOL USED TO
 6 PRODUCE ETHER.—Subsection (b) of section 40 of such
 7 Code is amended by adding at the end the following new
 8 paragraph:

9 “(6) DENIAL OF CREDIT FOR ALCOHOL USED
 10 TO PRODUCE ETHER.—No credit shall be allowed
 11 under this section for alcohol used to produce any
 12 ether.”

13 (c) CONFORMING REDUCTIONS OF OTHER INCEN-
 14 TIVES FOR ETHANOL FUEL.—

15 (1) REPEAL OF REDUCED RATE ON ETHANOL
 16 FUEL PRODUCED OTHER THAN FROM PETROLEUM
 17 OR NATURAL GAS.—Subsection (b) of section 4041
 18 of such Code is amended to read as follows:

19 “(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS
 20 USE.—

21 “(1) IN GENERAL.—No tax shall be imposed by
 22 subsection (a) or (d)(1) on liquids sold for use or
 23 used in an off-highway business use.

24 “(2) TAX WHERE OTHER USE.—If a liquid on
 25 which no tax was imposed by reason of paragraph

1 (1) is used otherwise than in an off-highway busi-
 2 ness use, a tax shall be imposed by paragraph
 3 (1)(B), (2)(B), or (3)(A)(ii) of subsection (a)
 4 (whichever is appropriate) and by the corresponding
 5 provision of subsection (d)(1) (if any).

6 “(3) OFF-HIGHWAY BUSINESS USE DEFINED.—
 7 For purposes of this subsection, the term ‘off-high-
 8 way business use’ has the meaning given to such
 9 term by section 6421(e)(2); except that such term
 10 shall not, for purposes of subsection (a)(1), include
 11 use in a diesel-powered train.”

12 (2) REPEAL OF REDUCED RATE ON ETHANOL
 13 FUEL PRODUCED FROM NATURAL GAS.—Subsection
 14 (m) of section 4041 of such Code is amended—

15 (A) by striking “or ethanol” each place it
 16 appears (including the heading of paragraph
 17 (2)), and

18 (B) by striking “, ethanol, or other alco-
 19 hol” in paragraph (2) and inserting “or other
 20 alcohol (other than ethanol)”.

21 (d) CONFORMING AMENDMENTS TO EXCISE TAXES;
 22 FUEL ALCOHOL TAXED IN SAME MANNER AS OTHER
 23 MOTOR FUELS.—

24 (1) IN GENERAL.—Paragraph (1) of section
 25 4083(a) of such Code (defining taxable fuel) is

1 amended by striking “and” at the end of subpara-
2 graph (A), by striking the period at the end of sub-
3 paragraph (B) and inserting “, and”, and by adding
4 at the end the following:

5 “(C) fuel alcohol.”

6 (2) FUEL ALCOHOL.—Subsection (a) of section
7 4083 of such Code is amended by adding at the end
8 the following new paragraph:

9 “(4) FUEL ALCOHOL.—The term ‘fuel alcohol’
10 means any alcohol (including ethanol and meth-
11 anol)—

12 “(A) which is produced other than from
13 petroleum, natural gas, or coal (including peat),
14 and

15 “(B) which is withdrawn from the distillery
16 where produced free of tax under chapter 51 by
17 reason of section 5181 or so much of section
18 5214(a)(1) as relates to fuel use.”

19 (3) RATE OF TAX.—Clause (i) of section
20 4081(a)(2)(A) of such Code is amended by inserting
21 “and in the case of fuel alcohol” after “aviation gas-
22 oline”.

23 (4) SPECIAL RULES FOR IMPOSITION OF TAX.—
24 Paragraph (1) of section 4081(a) of such Code is

1 amended by adding at the end the following new
2 subparagraph:

3 “(C) SPECIAL RULES FOR FUEL ALCO-
4 HOL.—In the case of fuel alcohol—

5 “(i) the distillery where produced shall
6 be treated as a refinery, and

7 “(ii) subparagraph (B) shall be ap-
8 plied by including transfers by truck or rail
9 in excess of such minimum quantities as
10 the Secretary shall prescribe.”

11 (5) REPEAL OF REDUCED RATES ON ALCOHOL
12 FUELS.—

13 (A) Section 4041 of such Code is amended
14 by striking subsection (k).

15 (B) Section 4081 of such Code is amended
16 by striking subsection (c).

17 (C) Section 4091 of such Code is amended
18 by striking subsection (c).

19 (6) CONFORMING AMENDMENTS.—

20 (A) Section 40 of such Code is amended by
21 striking subsection (c).

22 (B) Paragraph (4) of section 40(d) of such
23 Code is amended to read as follows:

1 “(4) VOLUME OF ALCOHOL.—For purposes of
2 determining under subsection (a) the number of gal-
3 lons of alcohol with respect to which a credit is al-
4 lowable under subsection (a), the volume of alcohol
5 shall include the volume of any denaturant (includ-
6 ing gasoline) which is added under any formulas ap-
7 proved by the Secretary to the extent that such de-
8 naturants do not exceed 5 percent of the volume of
9 such alcohol (including denaturants).”

10 (C) Paragraph (2) of section 4041(a) of
11 such Code is amended by adding at the end the
12 following: “No tax shall be imposed by this
13 paragraph on the sale or use of any liquid if tax
14 was imposed on such liquid under section 4081
15 and the tax thereon was not credited or re-
16 funded.”

17 (D) Section 6427 of such Code is amended
18 by striking subsection (f).

19 (E) Subsection (i) of section 6427 of such
20 Code is amended by striking paragraph (3).

21 (F) Paragraph (2) of section 6427(k) of
22 such Code is amended by striking “(3)”.

23 (G)(i) Paragraph (1) of section 6427(l) of
24 such Code is amended by striking “or” at the

1 end of subparagraph (A), by redesignating sub-
2 paragraph (B) as subparagraph (C), and by in-
3 serting after subparagraph (A) the following
4 new subparagraph:

5 “(B) any fuel alcohol (as defined in section
6 4083) on which tax has been imposed by sec-
7 tion 4081, or”.

8 (ii) Paragraph (2) of section 6427(l) of
9 such Code is amended by striking “and” at the
10 end of subparagraph (A), by redesignating sub-
11 paragraph (B) as subparagraph (C), and by in-
12 serting after subparagraph (A) the following
13 new subparagraph:

14 “(B) in the case of fuel alcohol (as so de-
15 fined), any use which is exempt from the tax
16 imposed by section 4041(a)(2) other than by
17 reason of a prior imposition of tax, and”.

18 (iii) The heading of subsection (l) of sec-
19 tion 6427 of such Code is amended by inserting
20 “, FUEL ALCOHOL,” after “DIESEL FUEL”.

21 (H) Sections 9503(b)(1)(E) and
22 9508(b)(2) of such Code are each amended by
23 striking “and diesel fuel” and inserting “diesel
24 fuel, and fuel alcohol”.

1 (I) Section 9502 of such Code is amended
 2 by striking subsection (e) and by redesignating
 3 subsection (f) as subsection (e).

4 (J) Subsection (e) of section 9502 of such
 5 Code (as redesignated by subparagraph (I)) is
 6 amended by striking paragraph (2) and by re-
 7 designating paragraph (3) as paragraph (2).

8 (K) Subsection (b) of section 9503 of such
 9 Code is amended by striking paragraph (5).

10 (L) Paragraph (3) of section 9503(f) of
 11 such Code is amended to read as follows:

12 “(3) PARTIALLY EXEMPT METHANOL OR ETHA-
 13 NOL FUEL.—In the case of a rate of tax determined
 14 under section 4041(m), the Highway Trust Fund fi-
 15 nancing rate is the excess (if any) of the rate so de-
 16 termined over—

17 “(A) 5.55 cents per gallon after September
 18 30, 1993, and before October 1, 1995, and

19 “(B) 4.3 cents per gallon after September
 20 30, 1995.”

21 (e) EFFECTIVE DATE.—The amendments made by
 22 this section shall take effect on January 1, 1999.

23 (f) FLOOR STOCK TAXES.—

1 (1) IMPOSITION OF TAX.—In the case of fuel al-
2 cohol which is held on January 1, 1999, by any per-
3 son, there is hereby imposed a floor stocks tax of
4 18.4 cents per gallon.

5 (2) LIABILITY FOR TAX AND METHOD OF PAY-
6 MENT.—

7 (A) LIABILITY FOR TAX.—A person hold-
8 ing fuel alcohol on January 1, 1999, to which
9 the tax imposed by paragraph (1) applies shall
10 be liable for such tax.

11 (B) METHOD OF PAYMENT.—The tax im-
12 posed by paragraph (1) shall be paid in such
13 manner as the Secretary shall prescribe.

14 (C) TIME FOR PAYMENT.—The tax im-
15 posed by paragraph (1) shall be paid on or be-
16 fore June 30, 1999.

17 (3) DEFINITIONS.—For purposes of this sub-
18 section—

19 (A) FUEL ALCOHOL.—The term “fuel alco-
20 hol” has the meaning given such term by sec-
21 tion 4083 of the Internal Revenue Code of
22 1986, as amended by this section.

23 (B) HELD BY A PERSON.—Fuel alcohol
24 shall be considered as “held by a person” if

1 title thereto has passed to such person (whether
2 or not delivery to the person has been made).

3 (C) SECRETARY.—The term “Secretary”
4 means the Secretary of the Treasury or his del-
5 egate.

6 (4) EXCEPTION FOR EXEMPT USES.—The tax
7 imposed by paragraph (1) shall not apply to fuel al-
8 cohol held by any person exclusively for any use to
9 the extent a credit or refund of the tax imposed by
10 section 4081 of the Internal Revenue Code of 1986
11 is allowable for such use.

12 (5) EXCEPTION FOR FUEL HELD IN VEHICLE
13 TANK.—No tax shall be imposed by paragraph (1)
14 on fuel alcohol held in the tank of a motor vehicle
15 or motorboat.

16 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
17 FUEL.—

18 (A) IN GENERAL.—No tax shall be im-
19 posed by paragraph (1) on fuel alcohol held on
20 January 1, 1999, by any person if the aggre-
21 gate amount of fuel alcohol held by such person
22 on such date does not exceed 2,000 gallons.
23 The preceding sentence shall apply only if such
24 person submits to the Secretary (at the time
25 and in the manner required by the Secretary)

1 such information as the Secretary shall require
2 for purposes of this paragraph.

3 (B) EXEMPT FUEL.—For purposes of sub-
4 paragraph (A), there shall not be taken into ac-
5 count fuel held by any person which is exempt
6 from the tax imposed by paragraph (1) by rea-
7 son of paragraph (4) or (5).

8 (C) CONTROLLED GROUPS.—For purposes
9 of this paragraph—

10 (i) CORPORATIONS.—

11 (I) IN GENERAL.—All persons
12 treated as a controlled group shall be
13 treated as 1 person.

14 (II) CONTROLLED GROUP.—The
15 term “controlled group” has the
16 meaning given to such term by sub-
17 section (a) of section 1563 of such
18 Code; except that for such purposes
19 the phrase “more than 50 percent”
20 shall be substituted for the phrase “at
21 least 80 percent” each place it ap-
22 pears in such subsection.

1 (ii) NONINCORPORATED PERSONS
2 UNDER COMMON CONTROL.—Under regula-
3 tions prescribed by the Secretary, prin-
4 ciples similar to the principles of clause (i)
5 shall apply to a group of persons under
6 common control where 1 or more of such
7 persons is not a corporation.

8 (7) OTHER LAWS APPLICABLE.—All provisions
9 of law, including penalties, applicable with respect to
10 the taxes imposed by section 4081 of such Code
11 shall, insofar as applicable and not inconsistent with
12 the provisions of this subsection, apply with respect
13 to the floor stock taxes imposed by paragraph (1) to
14 the same extent as if such taxes were imposed by
15 such section 4081.

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